



# REAL ESTATE BULLETIN

Gray Davis, Governor

Maria Contreras-Sweet, Secretary, Business, Transportation, & Housing Agency

Paula Reddish Zinnemann, Real Estate Commissioner

<http://www.dre.ca.gov>

Department of Real Estate

Spring 2002

## A message from Secretary Maria Contreras-Sweet

*from the Business, Transportation, and Housing Agency*

California's abundance of natural resources combined with a phenomenally skilled and diverse population has propelled its economy. California has climbed from the seventh to the fifth largest economy in the world.

But this prosperity has come at a price. California's population is growing and now exceeds 33 million people. That in turn is challenging our natural resources, our highways and roads, and our ability to provide enough student classrooms.

Many people are wondering how California can overcome this problem, especially in the face of a budget deficit. How will we build a better California? Governor Gray Davis has a plan for that: he is investing in California's infrastructure.

At a time when the country is experiencing an economic downturn, the Governor has created 900,000 new jobs in California by investing in the state's infrastructure. For example, at least 67,000 new jobs—enough to fill every seat in the Oakland Coliseum—will be created with the construction of the new eastern span of the San Francisco-Oakland Bay Bridge.

Governor Davis has invested nearly \$7 billion to improve transportation across California, the single largest General Fund investment in state history. He is improving one in every five miles

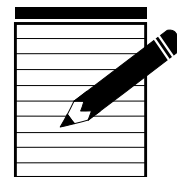
of California roadway and is adding hundreds of miles of new High Occupancy Vehicle (carpool) lanes.

Because of these efforts for the first time in decades, new, more energy efficient power plants are under construction or have come on line, delivering much-needed megawatts of reliable electricity. He created the largest energy conservation program in the nation, which includes rebates for homeowners, consumers, businesses and farms.

And, Governor Davis is investing \$9.2 billion to make schools in every region of the state modern, spacious and safe.

Building a better California means planning for the future. So when he took office three years ago, Governor Davis created the Commission on Building for the 21<sup>st</sup> Century. He asked me to co-chair this blue-chip council of Californians representing every as-

*Continued on page 3*



## Brokers —

### ***Don't allow property owners to have signatory or withdrawal power over your trust accounts***

Over the years the Department has received many inquiries from brokers asking if a property owner can be a signatory on the broker's trust account when the broker maintains a separate trust account just for one particular owner's property or properties.

The information that addresses this question is found primarily in Real Estate Law Section 10145. The pertinent part states "... All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds." Some brokers point to Regulation 2834 as being inconsistent with Section 10145. But another look shows that only employees of the broker who are subject to the brokers control and direction can also make withdrawals. The wording of Regulation 2834 shows that such other signatories are merely authorized to act on behalf of the broker pursuant to his or her explicit policies and instructions. In this regard, Regulation 2834 states that authorizing contractual licensees or bonded employees to withdraw trust funds does not relieve the broker "... from the responsibility or liability as provided by law in handling trust funds in the broker's custody."

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**REAL ESTATE BULLETIN**

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STATE OF CALIFORNIA

GRAY DAVIS, Governor

BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
MARIA CONTRERAS-SWEET, Secretary

DEPARTMENT OF REAL ESTATE  
PAULA REDDISH ZINNEBMAN, Commissioner

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# Home Loans + Teachers = ↑ Sales



from the California Housing Finance Agency

**S**elling homes to California's public school teachers has gotten even easier.

Another new program for educators offers an 80% first loan and a 17% "silent" second loan featuring deferred payments and simple interest. The "80/17" is an innovative partnership between the California State Teachers' Retirement System (CalSTRS) and the California Housing Loan Insurance Fund (CaHLIF), the mortgage insurance arm of the California Housing Finance Agency (CHFA). The maximum combined total for the first and second loan is \$450,000; in designated high cost counties, the maximum is \$550,000.

"The 80/17 can be good news for real estate licensees," says CaHLIF Officer Lorrie Blevins. "Since teachers only have to qualify for a loan on 80% of the purchase price, more educators may be able to buy a home." While 80/17 works effectively across the board, it was originally designed for those wishing to purchase a home in high-cost areas. Real estate licensees may find the 80/17 a useful tool in assisting homebuyers who want to live in a certain area but can't afford to.

Since the program went statewide last November, more than 130 applications have been received from educators, amounting to over \$30 million in mortgages. Outgoing CalSTRS Chief Executive Director James D. Mosman is pleased with the partnership between CalSTRS and CaHLIF. "It sets the standard of cooperation to provide common good and California teachers reap the benefits."

All employees of California's public schools and members of CalSTRS are eligible for the 80/17. More information is available by calling (916) 322-8936 and participating lender information is provided on the CalSTRS Web site at [www.calstrs.ca.gov](http://www.calstrs.ca.gov).

CHFA was created in 1975 as California's affordable housing bank to help meet the housing needs of people with low to moderate incomes. CalSTRS provides retirement benefits to California's public school educators from kindergarten through community college and serves about 496,000 California teachers. 🏠

## Did you know...

**California has the most FHA single family loan originations in the nation.**

## Who is watching the Web?

**T**he Internet is here to stay. It may not have taken over the real estate and mortgage business as some people had forecasted, but it is a dynamic medium for the marketing of real estate services.

Today, just as in times past, the advent of new technology brings challenges to the people who regulate the activity embraced by this technology. One of the challenges is to ensure that information being sent out over the Internet is in compliance with the Real Estate Law. Each and every broker who either operates a Web site or has employees that operate Web sites needs to review those Web sites to ensure they are in compliance. Section 10177(h) of the Business and Professions Code requires a broker to exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision, as defined by Regulation 2725, includes the establishment of policies, rules, procedures and systems to review, inspect and manage the activities of salespersons. Therefore, a broker should establish a policy to ensure that the broker is reviewing all Web sites used in connection with his or her brokerage.

It is a good practice for salespersons to have their Web sites reviewed by their broker prior to the site going online. It is also beneficial for brokers to establish systems to monitor the activities conducted by salespersons on the Web site.

The Department is currently monitoring the Internet for compliance with the Real Estate Law. Numerous violations have been noted in regards to how information is being presented. Remember, the Internet is just another advertising medium. The same rules apply to the Internet as those which apply if you are running an ad in the local newspaper or putting out a flyer.

Brokers need to be aware of and be involved in any licensed activity being conducted over the Internet by their salespersons. Common violations noted are as follows:

- No license identification pursuant to Business & Professions Code Section 10140.6 and Commissioner's Regulation 2770.1.
- For licensees engaged in mortgage loan activities, no license



identification pursuant to Business & Professions Code Section 10235.5, 10236.4, and Commissioner's Regulation 2847.3

- Licensees are advertising under unauthorized fictitious names, which results in a license status check showing no person is licensed under that name. Remember, unlicensed fictitious business names may not be used in any form of advertising.

Additional advertising violations pursuant to Commissioner's Regulation 2848 were noted for licensees engaged in loan solicitation.

In order to avoid becoming entangled in a web of legal problems, ensure that your Web site is in compliance with the Real Estate Law. Further information is available on the DRE Web site [www.dre.ca.gov](http://www.dre.ca.gov) (see FAQs – Internet Business/Advertising).

## Message

*Continued from page 1*

pect of life in the state, from entrepreneurs to experts to everyday residents. The Commission developed for the Governor's consideration proposals on building a better California without falling into the age-old trap passing the buck to the taxpayers.

The Commission addressed the eight building blocks that comprise the foundation on which our state rests: education, energy, housing, land, public buildings, technology, transportation and water. From building neighbor-

hood schools to maximizing renewable energy sources to encouraging affordable housing, the state now has proposals for streamlining government and taking full advantage of public-private partnerships to develop California's infrastructure without passing the expense on to taxpayers.

For example, the Commission calls for a unified California partnership for a larger share of federal transportation programs in the upcoming reauthorization in Washington. The long-term ben-

efit is more roads and better public transportation for our children. The short-term benefit is money being spent and jobs being created today.

Building a better California. It's what every generation of Californian has done before. Combine a long-term plan with the leadership of Governor Davis, the talent of the people of California, and it's exactly what we will do again. 🏠



## Signatory or withdrawal power

Continued from page 1

Once a broker has properly deposited trust funds into his or her trust account, the broker becomes obligated by Section 10145 to fulfill the role of trustee regarding the deposited funds, is held to a fiduciary duty to the brokers principals, and must be able to account to the principal for all disbursed funds.

Some brokers have asked, "Can I then have the owner and myself both be signatories on a separate trust account just for that owner's properties and require both of our signatures on all checks or other withdrawals?" The answer again is "no." The reason is that the broker would again be relinquishing his or her trusteeship. A practical solution that the Department may offer for this issue would be to set up two separate bank accounts. For illustration purposes, let's call them Account "A" and Account "B." Account "A" would be a trust account the broker uses to handle all trust funds received and disbursed for a particular property per Business & Professions Code Section 10145 and Regulation 2834. Account "B" would be a bank account opened and solely owned by the property owner to be used as a "reservoir" account. The property owner may dictate the level of funds to be maintained in Account "A" and instructs the broker to transfer any excess funds from Account

## New disclosure requirement Right to negotiate property inspections

On January 2, 2002, Assembly Bill 452 became effective. This legislation added Section 11010.11 to the Business & Professions Code and requires the Department of Real Estate to add a disclosure to subdivision public reports informing purchasers of the right to negotiate property inspections with the seller of the subdivision under terms mutually agreeable to both parties. Notwithstanding any provision in the purchase contract to the contrary, a prospective buyer has the right to negotiate with the seller to allow an inspection of property (used for residential purposes) by the buyer or the buyer's designee under terms mutually agreeable to the prospective buyer and seller.



Real estate brokers and salespersons involved in subdivision sales should be aware that purchasers have the right to negotiate with the seller to allow for a property inspection. 🏠

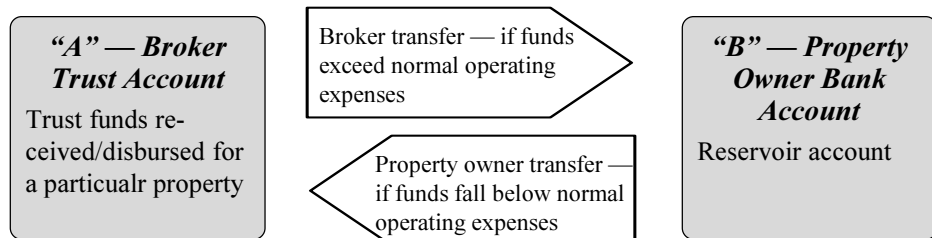
"A" to "B" by making a deposit directly to Account "B." For example, the property owner may instruct the broker to make a transfer to Account "B," at the beginning or the middle of each month if the level of funds in Account "A" exceeds the estimated amount of the normal operating expenses. Likewise, in the rare occasions when the level of funds in Account "A" unexpectedly falls below the estimated amount of normal operating expenses, the broker may ask the property owner to make a transfer of the amount of funds needed from Account "B" to Account "A." By taking this approach, the trusteeship of the brokers would be maintained and would also afford the property

owners a substantial level of control of their money yielded from their properties.

Perhaps the most difficult scenario to understand regarding this issue is, "What happens when the broker dies?" When a broker dies, the funds in his or her trust account will likely become (at least temporarily) a part of his estate. But that would be true even if an owner could withdraw funds from the broker's trust account. If an owner were to so withdraw funds, a court would likely require their return until a proper determination of ownership by the estate could be made.

None of this is a new line of thought. Brokers who operate contrary to the provisions of the Real Estate Law and the dictates of professionalism are relinquishing their trusteeship. In doing so, any such brokers are exposing themselves to the potential for a variety of civil liabilities and legal actions, and upon the Department's discovery of such practices, their real estate licenses may be jeopardized.

### Property owner instructions to broker



# Disciplinary Action — Sept. 2001 to Nov. 2001

- ✓ A list of actions is not published in this *Bulletin* until the 30-day period allowed for court appeal has expired, or if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.
- ✓ Licensees are listed alphabetically by the District Office region of responsibility.
- ✓ The license type is listed in parentheses after the licensee's name. [REB – Real

estate broker; RREB – Restricted real estate broker; RES – Real estate salesperson; RRES – Restricted real estate salesperson; PRLS – Prepaid rental listing service; RPRLS – Restricted prepaid rental listing service; REO – Real estate officer; REC – Real estate corporation]

- ✓ Below are brief summaries of various regulations and code sections. The full text of the sections is found in the Business and Professions Code and the Regulations of the Real Estate Com-

missioner, both of which are printed in the *Real Estate Law* book. The *Real Estate Law* book is available for purchase from the Department of Real Estate.

✓ Disciplinary actions that are "stayed" means "a delay in carrying out" all or part of the recommended discipline.



## Commissioner's Regulations

2715	Licensee's failure to maintain current business or mailing address with DRE
2725	Failure to broker to exercise reasonable supervision over the activities of his or her salespersons
2726	Failure to have broker-salesperson agreements
2731	Unauthorized use of fictitious business name
2752	Broker's failure to notify DRE of salesperson employment
2753	Broker's failure to retain salesperson's license at main office or return the license
2800(a)	Material change in subdivision offering
2800(p)(2)	Material change - Failure to pay subdivision assessments
2831	Failure to keep proper trust fund records
2831.1	Inadequate separate trust fund beneficiary records
2831.2	Failure to reconcile trust account
2832	Failure to comply with trust fund handling provisions
2832(a)	Failure of broker to place trust funds into hands of owner, into a neutral escrow depository or trust fund account within three business days of receipt
2832(e)	Failure of broker acting as escrow holder to deposit trust funds in trust account by next business day following receipt
2832.1	Failure to obtain permission to reduce trust fund balance in a multiple beneficiary account
2834	Trust account withdrawals by unauthorized or unbonded person
2834(b)	Unauthorized or unbonded person making withdrawals from corporate trust fund account
2835	Retention of broker funds in trust account
2840	Failure to give approved borrower disclosure
2950(d)	Failure of broker handling escrows to maintain records and accounts
2950(f)	Failure by broker handling escrow to deposit trust funds in trust account
2950(g)	Broker-handled escrow disbursement without written instructions
2950(h)	Failure to advise all parties of licensee's interest in agency holding escrow
2951	Improper record keeping for broker handled escrows

## Business and Professions Code

480(c)	Denial of license on grounds of false statement in license application
490	Substantially related criminal conviction
498	License obtained by fraud or misrepresentation
10130	Acting without license
10137	Unlawful employment or payment of compensation
10145	Trust fund handling
10145(a)	Trust fund handling
10145(c)	Failure by salesperson to deliver trust funds to broker
10146	Advance fee handling
10148	Failure to retain records and make available for inspection
10159.2	Failure by designated officer to supervise licensed acts of corporation
10159.5	Failure to obtain license with fictitious business name
10160	Failure to maintain salesperson licenses in possession of broker
10161.8	Failure of broker to notify Commissioner of salesperson employment

10161.8(a)	Failure of broker to notify Commissioner of salesperson employment
10163	Failure to obtain a branch office
10176(a)	Making any substantial misrepresentation
10176(e)	Commingling trust funds with brokers funds
10176(g)	Secret profit or undisclosed compensation
10176(i)	Fraud or dishonest dealing in licensed capacity
10177(a)	Procuring a real estate license by misrepresentation or material false statement
10177(b)	Conviction of crime
10177(d)	Violation of real estate law or regulations
10177(f)	Conduct that would have warranted denial of a license
10177(g)	Negligence or incompetence in performing licensed acts
10177(h)	Failure to supervise salespersons or licensed acts of corporation
10177(j)	Fraud or dishonest dealing as principal
10177(k)	Violation of restricted license condition
10177.5	Civil fraud judgment based on licensed acts
10229(h)(5)	Failing to forward multi-lender accountant's report to DRE
10232	Failure to notify DRE of threshold status
10232.2	Failure to file or maintain trust fund status
10232.25	Failure to file trust fund status reports
10240	Failure to give mortgage loan disclosure statement
11012	Material change in subdivision offering without notifying DRE

## REVOKED LICENSES

### Fresno Region

#### Bernard, Thomas James (REB)

556 E. Mariners Cir., Fresno

Effective: 11/29/01

Violation: 490, 10177(b)

#### Cuevas, Cesar (RES)

2246 Racquet Club, Los Banos

Effective: 10/24/01

Violation: 490, 498, 10177(a)(b)

#### Elcano, Stephen A. (RES)

235 Beech St., Bakersfield

Effective: 9/13/01

Violation: 498, 10177(a)

#### Riker, Thomas Floyd (RES)

344 Falcon Crest Dr.,

Arroyo Grande

Effective: 10/22/01

Violation: 498, 10177(a)

### Los Angeles Region

#### Barba, Javier David (RES)

13215 E. Penn St., Ste. 315,

Whittier

Effective: 11/26/01

Violation: 490, 10177(b)

#### Bay Ridge Group, Inc. (REC)

12062 Valley View St., Ste. 137,  
Garden Grove

Effective: 10/4/01

Violation: 2726, 2831, 2831.1,

2831.2, 2832.1, 2834, 10145,

10148, 10177(d)(g), 10232,

10232.25

#### Carrasco, Julio R. (RES)

10226 Lakewood Blvd., Downey

Effective: 11/19/01

Violation: 480(c), 10177(a)

#### Choi, Yong Shik (RES)

1973 S. State College Blvd.,

Anaheim

Effective: 11/5/01

Violation: 10137, 10176(a),

10177(d)(j)

#### Coleman, James Paul (RES)

14682 Kelly St., Adelanto

Effective: 11/13/01

Violation: 498, 10177(a)

#### Collins, Desiree (RES)

5159 Terramar Way, Oxnard

Effective: 10/23/01

Violation: 490, 10177(b)

#### Cruz, Julia (RES)

PO Box 40257, Downey

Effective: 11/29/01

Violation: 10176(a)(i), 10177(j)

**Dunne, Matthew Gene (RES)**

955 Calle Canta, Glendale  
Effective: 10/24/01  
Violation: 490, 10177(b)

**Esguerra, Jessie David (REB)**

17922 S. Horst Ave., Artesia  
Effective: 10/17/01  
Violation: 2725, 2840, 10177(d)  
(g)(h), 10240

**Ferguson, Keith Michael (RES)**

201 16<sup>th</sup> St., #4,  
Huntington Beach  
Effective: 11/16/01  
Violation: 490, 10177(a)(b)

**Fetzer, William Fleming IV (RES)**

821 Autumn Ln., Corona  
Effective: 10/4/01  
Violation: 480(c), 10177(a)

**Hart, Wallace Lang (RES)**

1060 Calle Del Cerro, #1107,  
San Clemente  
Effective: 9/13/01  
Violation: 498, 10177(a)

**Houston, Thomas William (RES)**

3867 Huron Ave., #6, Culver City  
Effective: 10/24/01  
Violation: 490, 10177(b)

**Hsu, George Chincheng (REB)**

5220 N. Rosemead Blvd., Ste. A,  
San Gabriel  
Effective: 9/17/01  
Violation: 2831, 2831.2, 2832.1,  
2950(d)(g), 2951, 10145,  
10176(e)(g)(i), 10177(d)(g)

**Johnson, Jessica Marlene (RES)**

5022 Adams St., Chino  
Effective: 11/16/01  
Violation: 490, 10177(b)

**Johnston, Diane Louise (RES)**

PO Box 1295, Orange  
Effective: 11/20/01  
Violation: 490, 10177(b)

**Lavey, Fred Henry Jr. (RRES)**

1000 N. Coast Hwy, #1,  
Laguna Beach  
Effective: 9/19/01  
Violation: 490, 10176(e)(i),  
10177(b)(d)(j)(k)

**Mayer, Laura Lee (RES)**

655 Baker St., #L205,  
Costa Mesa  
Effective: 11/5/01  
Violation: 498, 10177(a)

**Moland, Derick Andre (RES)**

3133 West 79<sup>th</sup> St., Los Angeles  
Effective: 11/1/01  
Violation: 490, 10177(b)

**Newberry, Matt M. (RES)**

451 W. Bonita Ave., Ste. 5,  
San Dimas  
Effective: 10/23/01  
Violation: 490, 10177(b)

**Post, Christopher Dean (RES)**

520 Murray Canyon Dr., #815,  
Palm Springs  
Effective: 10/24/01  
Violation: 490, 10177(b)

**Potter, Sandra Francine (RES)**

2061½ Santa Rosa, Altadena  
Effective: 10/15/01  
Violation: 490, 10177(b)

**Rader, Michael (RES)**

PO Box 4142, Sunland  
Effective: 10/25/01  
Violation: 490, 10177(b)

**Stone, Marty (RES)**

24421 Philemon, Dana Point  
Effective: 9/18/01  
Violation: 10130, 10137,  
10177(d)

**Tarin, Richard Gilbert (RES)**

1063 West 6<sup>th</sup> St., Ste. 101,  
Ontario  
Effective: 9/24/01  
Violation: 490, 10177(b)

**Truong, Jessica T. (RES)**

9702 Bolsa Ave., #40,  
Westminster  
Effective: 10/23/01  
Violation: 490, 498, 10177(a)(b)

**Vivola, Robert Joseph (REB)**

17445 Ivy Ave., Fontana  
Effective: 10/26/01  
Violation: 2731, 10148(a),  
10159.5, 10176(i), 10177(d)(g)

**Ward, Janice Patricia (RES)**

PO Box 5109, Balboa Island  
Effective: 5/14/01  
Violation: 490, 10177(b)

**Ward, Thomas Robert (REB)**

836 Carty Dr., Oxnard  
Effective: 9/20/01  
Violation: 490, 10177(b)

**Wiborg, Roy B. (RES)**

8712 Oland Ave., Sun Valley  
Effective: 9/25/01  
Violation: 490, 10177(b)

**Zandate, Greg (RES)**

11142 State St., #B, Lynwood  
Effective: 10/25/01  
Violation: 490, 10177(b)

**Oakland Region****Al Baldini Realty, Inc. (RREC)**

4977 Mission St., San Francisco  
Effective: 11/5/01  
Formerly known as: Century 21  
Baldini Realty, Inc.  
Violation: 10177(d)

**Bokov, Serge (RRES)**

477 34<sup>th</sup> Ave., #9, San Francisco  
Effective: 10/9/01  
Violation: 490, 10177(b)

**Bremner, John Price (REB)**

P.O. Box 1650, Ross  
Effective: 9/4/01  
Violation: 490, 10177(b)

**Campbell, Steven Robert (REB)**

346 Paul Ave., Salinas  
Effective: 11/9/01  
Violation: 490, 10177(b)

**Dhami, Balbir S. (REB)**

1642 Coraltree Pl., San Jose  
Effective: 9/24/01  
Violation: 10177.5

**Gomez, Edgar Anibal (REB)**

4221 Mission St., San Francisco  
Effective: 11/29/01  
Violation: 10177.5

**Graves, Teresa Marie (RES)**

1607 McGinness Ave., San Jose  
Effective: 11/1/01  
Violation: 490, 10177(b)

**Katz, Ken (REB)**

PO Box 270, Salinas  
Effective: 9/26/01  
Violation: 490, 10177(b)

**Nguyen, Shena H. (RES)**

38 Amberwood Cir.,  
San Francisco  
Effective: 9/13/01  
Violation: 490, 498, 10177(a)(b)

**Panzich, Reyna Elizabeth (RES)**

725 Capitola Ave., #F, Capitola  
Effective: 10/9/01  
Violation: 490, 498, 10177(a)(b)

**Schram, Rachel A. (RES)**

785 N. Fair Oaks, #3, Sunnyvale  
Effective: 11/29/01  
Violation: 490, 10177(b)

**Trujillo, Aaron Chris (RES)**

5169 Kiowa Ct., Antioch  
Effective: 9/13/01  
Violation: 490, 10177(b)

**Sacramento Region****Lewis, Richard Vincent (RES)**

PO Box 852, Clearlake  
Effective: 11/9/01  
Violation: 10130, 10137, 10145,  
10177(d)

**Margerum, Kevin (REB)**

3090 Pioneer Hill Rd., Placerville  
Effective: 10/24/01  
Violation: 10148, 10177(d)

**Niell, Eric Lonnie (REB)**

PO Box 464, Meadow Vista  
Effective: 10/17/01  
Violation: 490, 10177(b)

**San Diego Region****Bendah, Golda (RES)**

6264 Bernadette Ln., San Diego  
Effective: 9/24/01  
Violation: 490, 10177(b)

**Berend, Steven Hughes (REB)**

2717 Reynard Way, San Diego  
Effective: 9/17/01  
Violation: 490, 10177(b)

**Daly, Frank Joseph (REB)**

12759 Poway Dr.,  
Ste. 102, Poway  
Effective: 9/13/01  
Violation: 2726, 2753, 2831,  
2831.1, 2831.2, 2832, 2834,  
10145, 10148, 10163, 10177(d)

**Lawson, Brian R. (RES)**

500 N. Grape St., Escondido  
Effective: 11/29/01  
Violation: 498, 10177(a)

**Letourneau, Robert Gordon (RES)**

1565 Hotel Circle South,  
San Diego  
Effective: 9/13/01  
Violation: 490, 10177(b)

**Malec, David Arthur (RES)**

12751 Poway Rd., #103, Poway  
Effective: 9/26/01  
Violation: 10145(c), 10176(i),  
10177(d)

**Martin, Vicky Jo (RES)**

1966 Longfellow Rd., Vista  
Effective: 10/24/01  
Violation: 490, 10177(b)

**Morse, Thad E. (RES)**

508 Toucan Dr., Vista  
Effective: 10/24/01  
Violation: 498, 10177(a)

## REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

**Fresno Region****Hart, Timothy Harold (RES)**

4974 N. Fresno St., #363, Fresno  
Effective: 11/1/01  
Violation: 10130, 10177(d)  
Right to RRES license on terms  
and conditions

**Williams, Shellie R. (RES)**

PO Box 247, Auberry  
Effective: 9/26/01  
Violation: 498, 10177(a)  
Right to RRES license on terms  
and conditions

**Los Angeles Region****Alvarado, Elena Orozco (REB)**

2537 W. Beverly Blvd.,  
Ste. 103, Montebello  
Effective: 11/19/01  
Violation: 2831, 2831.2,  
2832(e), 2832.1, 2950(d)(f)(g),  
2951, 10145, 10177(d)  
Right to RREB license on terms  
and conditions

**Brabant, Robert Lowell (REB)**

7300 State St., Huntington Park  
Effective: 9/5/01  
Violation: 2832.1, 10145(a),  
10177(d)(g)  
Right to RREB license on terms  
and conditions

**Bradarrich, Maria Rossana (REB, REO)**

29050 S. Western Ave., Ste. 252,  
Rancho Palos Verdes  
Effective: 11/15/01  
Officer of: Seapoint Realty, Inc.  
Violation: 2831, 2831.2, 10145,  
10177(d)  
Right to RREB license on terms  
and conditions

**Cicala, Philip John (REB, REO)**

1436 Queen Summit Dr.,  
West Covina  
Effective: 11/29/01  
Officer of: Klamath River  
Development Co.  
Violation: 2800(a), 2800(p)(2),  
10177(d), 11012  
Right to RREB license on terms  
and conditions

**First Alliance Mortgage Company (REC)**

17305 Von Karman Ave., Irvine  
Effective: 10/24/01  
Violation: 10177(d), 10229(h)(5),  
10232.2, 10232.25  
Right to RREC license on terms  
and conditions

**Gross Financial Group, Inc. (REC)**  
817 N. Broadway, Ste. B,  
Santa Ana  
*Effective:* 9/4/01  
*Violation:* 2752, 2840, 10161.8,  
10176(g), 10177(d)(g), 10240  
Right to RREC license on terms  
and conditions

**Klamath River Development Co. (REC)**  
1436 Queen Summit Dr.,  
West Covina  
*Effective:* 11/29/01  
*Violation:* 2800(a), 2800(p)(2),  
10177(d), 11012  
Right to RREC license on terms  
and conditions

**Lee, Franklin D. (RREB, RREO)**  
11304½ South St., Cerritos  
*Effective:* 9/4/01  
*Violation:* 2752, 2831.2, 2832,  
2835, 10145, 10159.2, 10161.8,  
10165, 10177(d)(g)(h)(k)  
Right to RRES license on terms  
and conditions

**Lugo, Elisa (RES)**  
2134 Jasmine St., Oxnard  
*Effective:* 10/25/01  
*Violation:* 10130, 10177(d)(f)(g)  
Right to RRES license on terms  
and conditions

**Montes, Enrique Efren (REB, REO)**  
817 N. Broadway, Ste. B,  
Santa Ana  
*Effective:* 9/4/01  
*Officer of:* Gross Financial  
Group, Inc.  
*Violation:* 2831, 2832, 10145,  
10159.2, 10177(d)(h)  
Right to RREB license on terms  
and conditions

**NKL, Inc. (REC)**  
11304½ South St., Cerritos  
*Effective:* 9/4/01  
*Violation:* 2752, 2831.2, 2832,  
2835, 10145, 10161.8, 10165,  
10177(d)(g)(k)  
Right to RREC license on terms  
and conditions

**Perez, Michelle Lynn (RES)**  
129 Nantucket Ln., Aliso Viejo  
*Effective:* 9/17/01  
*Violation:* 498, 10177(a)  
Right to RRES license on terms  
and conditions

**Rangell, Deric Andrew (REB)**  
9047 Lakewood Blvd., Downey  
*Effective:* 9/19/01  
*Violation:* 2726, 2831, 2832,  
2832.1, 2950(g), 2951, 10145,  
10148, 10177(d)  
Right to RREB license on terms  
and conditions

**Reed, Barbara Carroll (REB)**  
32098 Hilltop Blvd.,  
Running Springs  
*Effective:* 11/14/01  
*Violation:* 490, 10177(b)  
Right to RRES license on terms  
and conditions

**Rezex, Abraham Julian (REB, REO)**  
7444 E. Florence Ave.,  
Ste. H, Downey  
*Effective:* 10/11/01

*Violation:* 10148, 10177(g)  
Right to RREB license on terms  
and conditions

**Safeguard Properties, Inc. (REC)**  
1565 Scenic Ave., Ste. E&F,  
Costa Mesa  
*Effective:* 10/22/01  
*Violation:* 2731, 2832, 2832.1,  
2840, 10137, 10145, 10163,  
10177(d)(g), 10240  
Right to RREC license on terms  
and conditions

**Safeguard Property Management, Inc. (REC)**  
1565 Scenic Ave., Ste. E,  
Costa Mesa  
*Effective:* 10/22/01  
*Violation:* 2832.1, 10130,  
10145, 10177(d)(g)  
Right to RREC license on terms  
and conditions

**Seapoint Realty, Inc. (REC)**  
29050 S. Western Ave., Ste. 252,  
Rancho Palos Verdes  
*Effective:* 11/15/01  
*Violation:* 2831, 2831.2, 10145,  
10177(d)  
Right to RREC license on terms  
and conditions

**Slaven, Robert R. (RREB)**  
1976 Scenic Ridge Dr.,  
Chino Hills  
*Effective:* 9/11/01  
*Violation:* 2831, 2831.1, 2831.2,  
2832, 2832.1, 2834, 10145,  
10177(d)(g)(h)(k)  
Right to RRES license on terms  
and conditions

**White, Robert Andrew (REB)**  
11411 Rancho Del Oro, Riverside  
*Effective:* 11/5/01  
*Violation:* 2831, 2831.2, 2834,  
10145(a), 10176(i), 10177(d)(g)  
Right to RRES license on terms  
and conditions

**Zwick, Brian Mitchell (REB, REO)**  
5310 Via Santander, Yorba Linda  
*Effective:* 10/10/01  
*Violation:* 490, 10177(b)  
Right to RRES license on terms  
and conditions

### Oakland Region

**Baldini, Al J. (RREB)**  
20 Acorn Dr., Hillsborough  
*Effective:* 11/5/01  
*Violation:* 10159.2, 10177(d)(h)  
Right to RRES license on terms  
and conditions

**Clemons, James Allen (REB)**  
1999 S. Bascom Ave., #480,  
Campbell  
*Effective:* 11/20/01  
*Violation:* 10177(d), 10234  
Right to RREB license on terms  
and conditions

**Cunningham, Mark Scott (REB)**  
1750 Bridgeway, Ste. 103-B,  
Sausalito  
*Effective:* 10/25/01  
*Violation:* 10176(a)  
Right to RREB license on terms  
and conditions

**Keltner, Frederick Lea (REB)**  
5553 Del Oro Dr., San Jose  
*Effective:* 11/16/01  
*Violation:* 2831.1, 2831.2,  
2832(a), 2832.1, 2835, 10145,  
10146, 10176(e)(g), 10177(d)  
Right to RREB license on terms  
and conditions

**Montiel, Rhene M. (REB)**  
3901 Grand Ave., #200, Oakland  
*Effective:* 10/1/01  
*Violation:* 2832(a), 2832.1,  
2834, 10145, 10163, 10165,  
10177(d)  
Right to RREB license on terms  
and conditions

**Thayer, Fred Tim (RES)**  
PO Box 505, Belmont  
*Effective:* 11/7/01  
*Violation:* 490, 10177(b)  
Right to RRES license on terms  
and conditions

**Tran, Thomas Minh Thuan (RES)**  
926 Sundance Dr., Fremont  
*Effective:* 11/19/01  
*Violation:* 490, 10177(b)  
Right to RRES license on terms  
and conditions

### Sacramento Region

**Burris, Mary M. (REB)**  
8210 Capwell Dr., Oakland  
*Effective:* 11/27/01  
*Formerly known as:* Michelle  
Ollar  
*Violation:* 10177(g)  
Right to RREB license on terms  
and conditions

**King, Rebecca Lynn (REB)**  
1260 Lake Blvd., Ste. 285, Davis  
*Effective:* 10/1/01  
*Violation:* 2715, 2831, 2831.2,  
2832(a), 2832.1, 2834, 10145,  
10177(d)  
Right to RREB license on terms  
and conditions

**Palazzo, Michael Roy (REB)**  
440 Drake Circle, Sacramento  
*Effective:* 10/3/01  
*Violation:* 10177(g)  
Right to RREB license on terms  
and conditions

### San Diego Region

**Aguirre, Manuel Rios (REB)**  
579 Telegraph Canyon Rd.,  
Chula Vista  
*Effective:* 9/26/01  
*Violation:* 2831, 2831.2,  
2832(a), 10145, 10148, 10159.5,  
10160, 10161.8(a), 10165,  
10177(d)  
Right to RREB license on terms  
and conditions

**Don Perry & Associates (RREC)**  
3060 Bonita Rd., Ste. 201,  
Chula Vista  
*Effective:* 11/1/01  
*Violation:* 2831, 2831.1, 2831.2,  
2832.1, 2834, 10145, 10160,  
10161.8(a)(b), 10165, 10177(d)  
Right to RREC license on terms  
and conditions

**Morris, Phillip Gail (REB)**  
4550 Kearny Villa Rd.,  
Ste. 111, San Diego  
*Effective:* 10/1/01  
*Violation:* 2831, 2831.2, 2832,  
2832.1, 2834, 10145, 10177(d)  
Right to RREB license on terms  
and conditions

**Perry, Donald Walter (RREB)**  
3060 Bonita Rd., Ste. 201,  
Chula Vista  
*Effective:* 11/1/01  
*Violation:* 10159.2, 10177(d)  
(g)(h)  
Right to RREB license on terms  
and conditions

**Weidinger, Joseph Thomas (RES)**  
3963 Gresham St., San Diego  
*Effective:* 11/8/01  
*Violation:* 498, 10177(a)  
Right to RRES license on terms  
and conditions

## SUSPENDED INDEFINITELY

### Los Angeles Region

**Farias, Ruth Georgenne (REB, REO)**  
5086 Westminster Blvd.,  
Westminster  
*Effective:* 9/17/01  
*Violation:* 2832, 10145,  
10177(d), 10229, 10232,  
10232.25  
Suspended for 90 days

### San Diego Region

**Cooper, Thomas Charles (REB, REO)**  
1265 Crystal Springs Dr.,  
Chula Vista  
*Effective:* 10/3/01  
*Violation:* 10159.2, 10177(c)(d)  
(g)(h)  
Suspended for 40 days

**Schuetz, Daniel John (RES)**  
4443 30th St., #100, San Diego  
*Effective:* 10/3/01  
*Violation:* 10130, 10177(d)  
Suspended for 40 days

## PUBLIC REPROVAL

### Los Angeles Region

**Walls, Raymond Lewis (REB, REO)**  
1565 Scenic Ave., Ste. E,  
Costa Mesa  
*Effective:* 10/22/01  
*Violation:* 10159.2, 10177(h)





## SUSPENDED WITH STAY

### Los Angeles Region

**Cestari, Mark Edward (RES)**  
11407 Stonecress Ave.,  
Fountain Valley  
*Effective:* 10/22/01  
*Violation:* 10130, 10177(d)  
Suspended for 90 days-all but 30 days stayed for 1 year on terms and conditions

**Clare, Judi Michelle (REB, REO)**  
18826-B Soledad Canyon Rd.,  
Santa Clarita  
*Effective:* 9/10/01  
*Officer of:* Santa Clarita Realty, Inc.  
*Violation:* 10177(h)  
Suspended for 90 days-stayed for 2 years on terms and conditions

**Kilmurray, Robert Bruce (REB)**  
100 S. Ola Vista, Ste. E,  
San Clemente  
*Effective:* 10/23/01  
*Violation:* 2831, 2832, 2832.1, 2834, 10145(a), 10148, 10161.8, 10176(e)(f), 10177(d)  
Suspended for 120 days-stayed for 2 years on terms & conditions

**Leung, Jenny Myeleng (REB)**  
18472 Colima Rd., #211,  
Rowland Heights  
*Effective:* 11/15/01  
*Violation:* 10137, 10177(g)  
Suspended for 90 days-stayed for 2 years on terms and conditions

**Rooks, Robert Denis (REB)**  
17088 Coolfield Dr., Covina  
*Effective:* 10/2/01  
*Violation:* 2831, 10148, 10177(d)(g)  
Suspended for 90 days-stayed for 2 years on terms and conditions

**Santa Clarita Realty, Inc. (REC)**  
18826-B Soledad Canyon Rd.,  
Santa Clarita  
*Effective:* 9/10/01  
*Violation:* 2731, 2831.2, 2834, 10145, 10177(d)  
Suspended for 90 days-stayed for 2 years on terms and conditions

**Talavera, Heriberto (RES)**  
2544 Orange Ave., #A,  
Costa Mesa  
*Effective:* 10/22/01  
*Violation:* 10130, 10177(d)  
Suspended for 90 days-all but 30 days stayed for 1 year on terms and conditions

**W E Grant Credit Construction, Inc. (REC)**  
106 W. Manchester Ave., #G,  
Los Angeles  
*Effective:* 9/4/01  
*Violation:* 10148, 10177(d)  
Suspended for 90 days-all but 30 days stayed for 2 years on terms and conditions

**Zaragoza, Hector M. (REB)**  
121 N. State College Blvd., #4,  
Anaheim  
*Effective:* 11/14/01

*Violation:* 2731, 2840, 2950(h), 10177(d), 10240  
Suspended for 90 days-stayed for 2 years on terms and conditions

### Oakland Region

**Bar K, Inc. (REC)**  
201 Lafayette Circle, Lafayette  
*Effective:* 10/31/01  
*Violation:* 2832, 10177(d)  
Suspended for 180 days-stayed for 2 years on terms & conditions

**Ng, Barney Joe (REO)**  
201 Lafayette Circle, Lafayette  
*Effective:* 10/31/01  
*Officer of:* Bar K, Inc.  
*Violation:* 2832, 10177(d)  
Suspended for 180 days-stayed for 2 years on terms & conditions

### Sacramento Region

**Chandler, Sherene Patricia (REB)**  
810 Davis St., Ste. A, Vacaville  
*Effective:* 10/4/01  
*Violation:* 2834, 10137, 10177(d)  
Suspended for 90 days-stayed for 2 years on terms and conditions

**O'Connor, John Joseph (REB, REO)**  
13624 Hornbrook Rd., Hornbrook  
*Effective:* 6/13/01  
*Violation:* 10137, 10177(d)(h)  
Suspended for 120 days-all but 30 days stayed for 3 years on terms and conditions

### San Diego Region

**American Home Buyers Mortgage, Inc. (REC)**  
1450 Frazee Rd., Ste. 706,  
San Diego  
*Effective:* 11/29/01  
*Violation:* 2726, 2831, 2831.1, 2831.2, 2832.1, 2834(b), 10145, 10161.8(a), 10165, 10177(d), 10240  
Suspended for 60 days-stayed for 2 years on conditions

**American Home Marketing, Inc. (REC)**  
1450 Frazee Rd., Ste. 706,  
San Diego  
*Effective:* 11/29/01  
*Violation:* 2726, 2831, 2831.1, 2831.2, 2834(b), 10145, 10161.8(a), 10165, 10177(d)  
Suspended for 60 days-stayed for 2 years on conditions

**Cooper, Robert Glenn (REB, REO)**  
1607 Pepperwood Dr., El Cajon  
*Effective:* 10/3/01  
*Violation:* 10159.2, 10177(d)(g)(h)  
Suspended for 10 days-stayed for 2 years on terms and conditions

**Epperson, Alan Owen (REB)**  
25672 Weston Dr.,  
Laguna Niguel  
*Effective:* 10/1/01  
*Violation:* 2726, 2831, 2832, 10145, 10177(d)  
Suspended for 90 days-stayed for 2 years on terms and conditions

## Suggestions

Thank you to all who offered suggestions for improvement of the *Real Estate Bulletin*. Your ideas are still welcome. Please send them to:

Real Estate Bulletin Editor  
Department of Real Estate  
P.O. Box 187000  
Sacramento CA 95818-7000

**Forness, John Francis (REB, REO)**  
7439 Jackson Dr., San Diego  
*Effective:* 9/5/01  
*Violation:* 2725, 2731, 2752, 2831, 2831.2, 2832, 2834, 10161.8(b), 10163, 10177(d)(h)  
Suspended for 100 days-stayed for 2 years on terms & conditions

**Krause, Jo Ann (RES)**  
7930 Forrestal Rd., San Diego  
*Effective:* 10/31/01  
*Violation:* 10130, 10177(d)  
Suspended for 100 days-stayed for 2 years on terms & conditions

**Qualifund Financial, Inc. (REC)**  
4443 30<sup>th</sup> St., Ste. 100, San Diego  
*Effective:* 10/3/01  
*Violation:* 10137, 10177(d), 10240  
Suspended for 40 days-stayed for 2 years

**Swanson, Robert Justus (REB, REO)**  
1450 Frazee Rd., Ste. 706,  
San Diego  
*Effective:* 11/29/01  
*Officer of:* American Home Marketing, Inc.; American Home Buyers Mortgage Inc.  
*Violation:* 10159.2, 10177(d)(g)(h)  
Suspended for 60 days-stayed for 2 years on conditions

*Effective:* 10/17/01

**Romero, Sergio (RES)**  
PO Box 10519, Costa Mesa  
*Effective:* 11/14/01

**SMC Lending, Inc. (REC)**  
41593 Winchester Rd., Ste. 118,  
Temecula  
*Effective:* 9/19/01

**Waltz, Larry C. (REB)**  
1884 Eastman Ave., #102,  
Ventura  
*Effective:* 9/17/01

### Oakland Region

**Goodman, Richard Donald (REB, REO)**  
2012 Park Blvd., Oakland  
*Effective:* 9/4/01  
*Officer of:* Richard Goodman Mortgage Corp.

**Richard Goodman Mortgage Corp. (REC)**  
2012 Park Blvd., Oakland  
*Effective:* 9/4/01

### San Diego Region

**KFG Real Estate, Inc. (REC)**  
4180 Ruffin Rd., Ste. 295,  
San Diego  
*Effective:* 9/5/01

## INDEFINITE SUSPENSIONS (under Recovery Acct. provisions)

**All Financial Services, Inc. (REC)**  
1026 Manhattan Beach Blvd.,  
Ste. B, Manhattan Beach  
*Effective:* 11/26/01

**Hernandez, Thomas Andrew (RES)**  
1843 Elmhurst Cir., Claremont  
*Effective:* 11/26/01

**Morote, Zoila E. (RES)**  
9027 Florence Ave., Ste. C,  
Downey  
*Effective:* 10/25/01

**Peck, Richard Aaron (REB)**  
111 Anza Blvd., #430,  
Burlingame  
*Effective:* 9/19/01

**Willis, Michael D. (RES)**  
P.O. Box 1344, Alpine  
*Effective:* 9/19/01

**LICENSE SURRENDERED**  
(Licenses voluntarily surrendered per B&P Code §10100.2 during an administrative action or investigation)

### Los Angeles Region

**Diestel, Joseph F. (RES)**  
300 Catalina Dr., Newport Beach  
*Effective:* 11/13/01

**Markarian, Markar Khosrov (REB)**  
535 W. Glenoaks Blvd., Glendale  
*Effective:* 9/24/01

**Moreno, Ted R. (RES)**  
515 N. Linwood, Santa Ana  
*Effective:* 9/17/01

**Patel, Chandrakant K. (REB, REO)**  
PO Box 1314, Cypress



## DRE employees cannot serve as expert witnesses

The Department of Real Estate has some very experienced attorneys, auditors, investigators and subdivision specialists on its staff. Some of our employees have spent more than 30 years in their respective areas and have become recognized experts in their fields. From time to time our employees are asked to appear as expert witnesses in litigation. However, in spite of their expertise, Department employees are not allowed to act as expert

witnesses in civil, criminal or administrative proceedings.

Section 19990 of the Government Code lists a number of activities that are considered to be incompatible with employment as a state officer or employee. Included in those prohibited acts is: using state time, facilities, equipment or supplies for private gain and using the prestige or influence of the State for the employee's personal benefit. Section 19990 also requires all state departments

to determine which specific activities are incompatible for its employees.

The Department of Real Estate has adopted an Incompatible Activities Statement for DRE employees. The Statement precludes employees from performing a number of acts, including: conducting any activity for which a real estate license is required or receiving any consideration, other than from the Department, for performing official acts or duties. There are a number of other specifically prohibited acts listed in the Statement. Included among those acts is, "Voluntarily agreeing to act or accepting employment as an expert witness on behalf of someone other than the Department or other state or local public agency to testify on matters or issues related to the employee's duties with the Department, including testifying at a deposition or any action (i.e., civil, criminal, administrative, etc.) to determine whether a real estate licensee has fulfilled the obligations and duties associated with activities requiring a real estate license." In this regard, litigants should not plan on using Department of Real Estate employees as experts in any proceeding.

The Department recognizes that the Incompatible Activities Statement deprives litigants of the ability to use the expertise of Department employees in resolving disputes. However, the Department believes that the goal of fair and impartial enforcement of the Real Estate Law is best served by insuring that its employees remain neutral and disinterested in everything but the enforcement of that law. The Incompatible Activities Statement applies only to current employees. Therefore, persons interested in an expert with Department of Real Estate experience are free to contact and use former DRE employees. 🏠

## Department of Real Estate Forum

On January 25<sup>th</sup> Commissioner Paula Reddish Zinnemann convened a Department of Real Estate Forum and introduced guest speakers Mel Bernard and Anthony Putuzulu from the Inspector General's Office of the Department of Housing and Urban Development (HUD). Messrs. Bernard and Putuzulu presented information on HUD's loan fraud enforcement efforts and investigative techniques. They also provided specific examples of loan origination fraud schemes and potential penalties for those caught, including incarceration and restitution in excess of one million dollars.

Chief Deputy Commissioner John Liberator reported on departmental operations followed by a presentation by Fa-Chi Lin, the Department's Chief Auditor, about the new predatory lending act and some of the things the Department's Auditors will be looking for to determine if brokers are arranging loans subject to the act's provisions and basic compliance.

Bill Moran, Assistant Commissioner, Enforcement spoke about license processing delays and other difficulties encountered by license applicants who fail to disclose crimes when applying for a license. He reported that "My broker told me not to" is one of the most common excuses the DRE hears in these situations. Brokers were encouraged to advise their license applicants to be certain they disclose all misdemeanor and felony convictions, except for simple traffic violations, such as speeding tickets.

The meeting concluded with questions from the audience and ensuing discussion. 🏠



Attendees were provided the opportunity to engage in an open forum with the DRE.



From left to right: Fa-Chi Lin, Audits Chief; Commissioner Paula Reddish Zinnemann; Chief Deputy Comm. John Liberator.

# Predatory Lending Audits

The term “predatory lending” encompasses a variety of home mortgage lending practices. Homeowners in certain communities, particularly the elderly and minorities, are targeted with offers of high-cost, home-secured credit. Elderly homeowners targeted for predatory lending typically are living on fixed incomes and have little or no home-secured debt (they are oftentimes “equity rich” but “cash poor”). Most borrowers use the collateral in their homes for debt consolidation, home improvement, or other consumer credit purposes. Most predatory lending occurs in the “subprime mortgage market” which refers to the segment of the mortgage market dedicated to borrowers who do not qualify for prime rates due to prior or present credit problems.

Predatory loans carry high up-front fees that are added to the balance, which decreases the homeowner's equity. Lenders often base the amount of the loan on the borrower's home equity and do not take into account the borrower's ability to make the scheduled payments. When borrowers have trouble repaying the debt, they are often encouraged to refinance the loan into another unaffordable, high-fee loan that rarely provides economic benefit to the consumer. The cycle of high-cost loan refinancing can ultimately deplete the homeowner's equity and result in foreclosure.

Governor Davis recently signed AB 489 — the Predatory Lending bill. (Note: AB 344, Migden, Chapter 733 was a trailer bill to AB 489 and made various technical changes to AB 489.) This new law — Chapter 732 - Division 1.6 (Section 4970 through Section 4979.8 of the Financial Code), is significant in terms of consumer protection. It is designed to protect those people in our state who

can least afford to lose money.

The law prohibits *predatory lending practices*, such as:

- “Flipping” (the frequent making of new loans to refinance existing loans),
- “Packing” (the selling of additional products without the borrower's informed consent), and
- Charging excessive fees.

The Department of Real Estate will develop and implement new audit procedures to determine compliance with the new lending law by mortgage loan brokers (MLBs).

The new audit procedures will first determine if a loan meets one of the following two conditions to be subject to the new law:

- The loan must be a “consumer loan” as defined in Section 4970(d) of the Financial Code. A consumer loan has the following characteristics:
  - Secured by real property.
  - The real property securing the loan must be *located in California*.
  - The property must be, or intended to be, the principal dwelling of the borrower.
  - The property must be *one-to-four residential units*.
- The “consumer loan” must also be a “covered loan.”

A “covered loan” is one where the original principal balance (or face value of the promissory note) of the loan is *not more than* \$250,000, and satisfies one of the following criteria:

- The annual percentage rate is 8% *more than* the yield on US Treasury Securities with comparable maturity dates on the

15<sup>th</sup> of the month immediately preceding the month in which the application for the loan is received by the creditor; or

- The total points and fees payable by the borrower *will exceed* 6% of the total amount of the loan.

The new audit procedures will further determine whether the auditee violated the *prohibited acts and limitations* for covered loans.

The following are examples of prohibited acts:

- A covered loan shall not include a prepayment fee or penalty after the first 36 months after the date of consummation of the loan.
- Originating a covered loan to finance a prepayment penalty through a new loan if both loans were originated by the same person.
- A covered loan shall not contain a provision for negative amortization such that the payment schedule for regular monthly payments causes the principal balance to increase, unless the covered loan is a first mortgage with disclosure made to the borrower.
- Originating a covered loan with provisions that the interest rate will increase as a result of a default.

For details of all the prohibited acts under the predatory lending law, refer to Section 4973 of the Financial Code which is available on the DRE Web site (see Real Estate Law — Pertinent Excerpts from the California Codes).

Chapter 732, the Predatory Lending law, will become effective July 1, 2002. 🏠

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The Department of Real Estate (DRE) Web site provides a fast and easy way for licensees to interact with the DRE. You can change your mailing address, check your license status, obtain forms, access publications, find continuing education courses, review Internet business/advertising guidelines, find DRE contact information and more!

The entire Web site was reviewed and updated in January 2002. In addition, the following new features were added:



**2002 Real Estate Law** – Includes the Real

Estate Law, Subdivided Lands Law, Regulations of the Real Estate Commissioner and other pertinent excerpts from the California Codes related to real estate.

**Glossary of Real Estate Terms** – Links to Chapter 29 of the *Reference Book* which provides definitions for real estate terms.

**Information for Homebuyers** – Provides an overview of the home purchase process with links to further information.



**In the Spotlight** – Quick links to popular topics from the main page.

**Escrow Violations** – Can be used to determine if a specific escrow company, title company or real estate broker with an escrow division has been the subject of administrative action by the Department of Corporations, California Department of Insurance or DRE.



**DRE Information in Chinese** – Help-

ful information about the DRE and how to file a real estate complaint is provided in Chinese.

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